

RESOLUTION NO. SA-13-37

A RESOLUTION OF THE IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY CONFIRMING THAT ANY UNMET AFFORDABLE HOUSING OBLIGATIONS OF THE FORMER IMPERIAL BEACH REDEVELOPMENT AGENCY, TO THE EXTENT SUCH OBLIGATIONS EXISTED AND CONTINUE TO EXIST UNDER THE LAW, ARE AND HAVE BEEN RETAINED BY THE SUCCESSOR AGENCY AS ENFORCEABLE OBLIGATIONS TO BE FUNDED FROM THE REDEVELOPMENT PROPERTY TAX TRUST FUND AND WERE NOT TRANSFERRED TO THE SUCCESSOR HOUSING ENTITY, IN ACCORDANCE WITH HEALTH AND SAFETY CODE SECTION 34176(b)

WHEREAS, the Imperial Beach Redevelopment Agency ("Redevelopment Agency") was a redevelopment agency in the City of Imperial Beach ("City"), duly created pursuant to the California Community Redevelopment Law (Part 1 (commencing with Section 33000) of Division 24 of the California Health and Safety Code) ("Redevelopment Law"); and

WHEREAS, California Health and Safety Code ("Health and Safety Code") Sections 33334.2 and 33334.3 of the Redevelopment Law required the Redevelopment Agency to deposit into its Low and Moderate Income Housing Fund not less than twenty percent (20%) of taxes allocated to the Redevelopment Agency pursuant to Health and Safety Code Section 33670 of the Redevelopment Law for the purposes of increasing, improving, and preserving the community's supply of low and moderate income housing; and

WHEREAS, the Redevelopment Law required the Redevelopment Agency to perform certain obligations in connection with increasing, improving, and preserving the community's supply of low and moderate income housing, with its Low and Moderate Income Housing Fund, and with other matters relating to affordable housing ("Affordable Housing Obligations"). The Redevelopment Agency funded its Affordable Housing Obligations with funds from its Low and Moderate Income Housing Fund; and

WHEREAS, Assembly Bill No. X1 26 (2011-2012 1st Ex. Sess.) ("AB 26") was signed by the Governor of California on June 28, 2011, making certain changes to the Redevelopment Law and to the Health and Safety Code, including adding Part 1.8 (commencing with Section 34161) ("Part 1.8") and Part 1.85 (commencing with Section 34170) ("Part 1.85") to Division 24 of the Health and Safety Code; and

WHEREAS, pursuant to AB 26, as modified by the California Supreme Court on December 29, 2011 by its decision in *California Redevelopment Association v. Matosantos*, all California redevelopment agencies, including the Redevelopment Agency, were dissolved on February 1, 2012, and successor agencies were designated and vested with the responsibility of paying, performing and enforcing the enforceable obligations of the former redevelopment agencies and expeditiously winding down the business and fiscal affairs of the former redevelopment agencies; and

WHEREAS, as part of the FY 2012-2013 State budget package, on June 27, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1484 ("AB 1484", Chapter 26, Statutes 2012), which amended certain provisions of AB 26. On September 29, 2012, the Legislature passed and the Governor signed Assembly Bill No. 1585 ("AB 1585"), which further amended certain provisions of AB 26 as amended by AB 1484 (AB 26, AB 1484, and AB 1585 are collectively referred to herein as the "Dissolution Act"); and

WHEREAS, the Dissolution Act has been interpreted to not permit or require any further deposits of taxes into the Low and Moderate Income Housing Fund for affordable housing purposes, as was otherwise required of the former Redevelopment Agency pursuant to Health

and Safety Code Sections 33334.2 and 33334.3 of the Redevelopment Law; and

WHEREAS, there is a question under the law of whether any unmet Affordable Housing Obligations of the former Redevelopment Agency, to the extent any such obligations existed, continue to exist under the law after the Redevelopment Agency's dissolution; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-7136 on January 5, 2012, pursuant to Part 1.85 of the Dissolution Act, electing for the City to serve as the successor agency to the Redevelopment Agency upon the dissolution of the Redevelopment Agency on February 1, 2012 under the Dissolution Act ("Successor Agency"); and

WHEREAS, on February 15, 2012, the Board of Directors of the Successor Agency, adopted Resolution No. SA-12-01 naming itself the "Imperial Beach Redevelopment Agency Successor Agency," the sole name by which it will exercise its powers and fulfill its duties pursuant to Part 1.85 of the Dissolution Act, and establishing itself as a separate legal entity with rules and regulations that will apply to the governance and operations of the Successor Agency; and

WHEREAS, the City Council of the City adopted Resolution No. 2012-7137 on January 5, 2012, pursuant to Part 1.85 of the Dissolution Act, designating the Housing Authority of the City of Imperial Beach ("Housing Authority") to serve as the successor housing entity to the Redevelopment Agency upon the dissolution of the Redevelopment Agency on February 1, 2012 under the Dissolution Act ("Successor Housing Entity"), and to receive the former Redevelopment Agency's rights, powers, assets, duties, and obligations associated with the housing activities of the former Redevelopment Agency. The Housing Authority adopted Resolution No. HA-12-06 on January 5, 2012 accepting the transfer of the rights, powers, assets, duties, and obligations associated with the housing activities of the former Redevelopment Agency as the Successor Housing Entity. Enforceable obligations retained by the Successor Agency and any amounts in the Low and Moderate Income Housing Fund are not transferred to the Successor Housing Entity, in accordance with Health and Safety Code Section 34176(b) of the Dissolution Act; and

WHEREAS, on February 1, 2012, the Redevelopment Agency was dissolved by operation of law and the Successor Agency and Successor Housing Entity were established pursuant to the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34175(b) of the Dissolution Act, on February 1, 2012, all assets, properties, contracts, leases, books and records, buildings and equipment of the former Redevelopment Agency transferred by operation of law to the control of the Successor Agency for administration pursuant to Part 1.85 of the Dissolution Act; and

WHEREAS, pursuant to Health and Safety Code Section 34176(b) of the Dissolution Act, all rights, powers, duties, obligations, and housing assets as defined in Section 34176(e) associated with the housing activities of the former Redevelopment Agency, excluding enforceable obligations retained by the Successor Agency and any amounts in the Low and Moderate Income Housing Fund, shall be transferred to the Housing Authority acting in its capacity as the Successor Housing Entity; and

WHEREAS, the Successor Agency desires to confirm that any unmet Affordable Housing Obligations of the former Redevelopment Agency, to the extent such obligations existed and continue to exist under the law, are and have been retained by the Successor Agency as enforceable obligations to be funded from the Redevelopment Property Tax Trust

Fund and were not transferred to the Successor Housing Entity, in accordance with Health and Safety Code Section 34176(b) of the Dissolution Act; and

WHEREAS, the activity proposed for approval by this Resolution has been reviewed with respect to applicability of the California Environmental Quality Act ("CEQA"), the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 *et seq.*, hereafter the "Guidelines"), and the City's environmental guidelines; and

WHEREAS, the activity proposed for approval by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because the activity proposed by this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines; and

WHEREAS, all of the prerequisites with respect to the approval of this Resolution have been met;

NOW, THEREFORE, BE IT RESOLVED by the Imperial Beach Redevelopment Agency Successor Agency, as follows:

- Section 1.** The Successor Agency hereby determines that the foregoing recitals are true and correct and are a substantive part of this Resolution.
- Section 2.** The Successor Agency hereby confirms and determines that any unmet Affordable Housing Obligations of the former Redevelopment Agency, to the extent such obligations existed and continue to exist under the law, are and have been retained by the Successor Agency as enforceable obligations to be funded from the Redevelopment Property Tax Trust Fund and were not transferred to the Successor Housing Entity, in accordance with Health and Safety Code Section 34176(b) of the Dissolution Act.
- Section 3.** The Executive Director, or designee, of the Successor Agency is hereby authorized and directed to take such other actions and execute such other documents as are necessary or desirable to effectuate the intent of this Resolution on behalf of the Successor Agency.
- Section 4.** If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Successor Agency declares that its board would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.
- Section 5.** The adoption of this Resolution is not intended to and shall not constitute a waiver by the Successor Agency of any constitutional, legal or equitable rights that the Successor Agency may have to challenge, through any administrative or judicial proceedings, the effectiveness and/or legality of all or any portion of the Dissolution Act, any determinations rendered or actions or omissions to act by any public agency or government entity or division in the implementation of the Dissolution Act, and any and all related legal and factual issues, and the Successor Agency expressly

reserves any and all rights, privileges, and defenses available under law and equity.

Section 6. The Successor Agency determines that the activity approved by this Resolution is not a "project" for purposes of CEQA, as that term is defined by Guidelines Section 15378, because the activity approved by this Resolution is an organizational or administrative activity that will not result in a direct or indirect physical change in the environment, per Section 15378(b)(5) of the Guidelines.

Section 7. This Resolution shall take effect upon the date of its adoption.

PASSED, APPROVED, AND ADOPTED by the Imperial Beach Redevelopment Agency Successor Agency at its meeting held on the 4th day of December 2013, by the following vote:

AYES:	BOARDMEMBERS:	SPRIGGS, BILBRAY, PATTON, BRAGG, JANNEY
NOES:	BOARDMEMBERS:	NONE
ABSENT:	BOARDMEMBERS:	NONE



JAMES C. JANNEY
CHAIRPERSON

ATTEST:



JACQUELINE M. HALD, MMC
SECRETARY